

HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 573

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

AN ACT

RELATING TO THE RETIREMENT OF PUBLIC EMPLOYEES; AMENDING THE  
EDUCATIONAL RETIREMENT ACT TO CHANGE RETIREMENT ELIGIBILITY  
REQUIREMENTS FOR NEW MEMBERS, TO REQUIRE FINANCIAL TRAINING FOR  
BOARD MEMBERS, TO PROVIDE A LIMIT ON THE CALCULATION OF AVERAGE  
ANNUAL SALARY, TO PROVIDE CONDITIONS FOR ACQUIRING CERTAIN  
ALLOWED SERVICE CREDIT AND TO CHANGE THE REQUIREMENTS FOR  
RETURNING TO WORK AFTER RETIREMENT; AMENDING THE PUBLIC  
EMPLOYEES RETIREMENT ACT TO CHANGE RETIREMENT ELIGIBILITY  
REQUIREMENTS FOR NEW MEMBERS, TO REQUIRE FINANCIAL TRAINING FOR  
BOARD MEMBERS, TO PROVIDE A LIMIT ON THE CALCULATION OF FINAL  
AVERAGE SALARY, TO ADJUST THE CALCULATION OF SERVICE CREDIT  
UNDER CERTAIN RETIREMENT PLANS AND TO CHANGE THE REQUIREMENTS  
FOR RETURNING TO WORK AFTER RETIREMENT; AMENDING THE RETIREE  
HEALTH CARE ACT TO CLARIFY A CERTAIN DEFINITION, TO INCREASE  
CERTAIN CONTRIBUTION RATES FROM CERTAIN MEMBERS AND TO REQUIRE

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1 ADDITIONAL CONTRIBUTIONS FROM EMPLOYEES WHO HAVE ACCRUED  
2 CERTAIN SERVICE CREDITS; CONTINUING A CERTAIN TAX DISTRIBUTION  
3 TO THE RETIREE HEALTH CARE FUND; RECONCILING MULTIPLE  
4 AMENDMENTS TO THE SAME SECTIONS OF LAW IN LAWS 2003;  
5 RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW  
6 BY REPEALING LAWS 2004, CHAPTER 2, SECTION 1.

7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

9 Section 1. Section 7-1-6.56 NMSA 1978 (being Laws 2007,  
10 Chapter 168, Section 1) is amended to read:

11 "7-1-6.56. DISTRIBUTION--RETIREE HEALTH CARE FUND.--In  
12 addition to the distribution made pursuant to Section 7-1-6.30  
13 NMSA 1978, [~~for the period beginning July 1, 2007 and ending~~  
14 ~~June 30, 2010~~] a distribution pursuant to Section 7-1-6.1 NMSA  
15 1978 shall be made to the retiree health care fund in the  
16 amount of two hundred fifty thousand dollars (\$250,000)."

17 Section 2. Section 10-7C-4 NMSA 1978 (being Laws 1990,  
18 Chapter 6, Section 4, as amended) is amended to read:

19 "10-7C-4. DEFINITIONS.--As used in the Retiree Health  
20 Care Act:

21 A. "active employee" means an employee of a public  
22 institution or any other public employer participating in  
23 either the Educational Retirement Act, the Public Employees  
24 Retirement Act, the Judicial Retirement Act, the Magistrate  
25 Retirement Act or the Public Employees Retirement Reciprocity

1 Act or an employee of an independent public employer;

2 B. "authority" means the retiree health care  
3 authority created pursuant to the Retiree Health Care Act;

4 C. "basic plan of benefits" means only those  
5 coverages generally associated with a medical plan of benefits;

6 D. "board" means the board of the retiree health  
7 care authority;

8 E. "current retiree" means an eligible retiree who  
9 is receiving a disability or normal retirement benefit under  
10 the Educational Retirement Act, the Public Employees Retirement  
11 Act, the Judicial Retirement Act, the Magistrate Retirement  
12 Act, the Public Employees Retirement Reciprocity Act or the  
13 retirement program of an independent public employer on or  
14 before July 1, 1990;

15 F. "eligible dependent" means a person obtaining  
16 retiree health care coverage based upon that person's  
17 relationship to an eligible retiree as follows:

18 (1) a spouse;

19 (2) an unmarried child under the age of  
20 nineteen who is:

21 (a) a natural child;

22 (b) a legally adopted child;

23 (c) a stepchild living in the same  
24 household who is primarily dependent on the eligible retiree  
25 for maintenance and support;

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1 (d) a child for whom the eligible  
2 retiree is the legal guardian and who is primarily dependent on  
3 the eligible retiree for maintenance and support, as long as  
4 evidence of the guardianship is evidenced in a court order or  
5 decree; or

6 (e) a foster child living in the same  
7 household;

8 (3) a child described in Subparagraphs (a)  
9 through (e) of Paragraph (2) of this subsection who is between  
10 the ages of nineteen and twenty-five and is a full-time student  
11 at an accredited educational institution; provided that  
12 "full-time student" shall be a student enrolled in and taking  
13 twelve or more semester hours or its equivalent contact hours  
14 in primary, secondary, undergraduate or vocational school or a  
15 student enrolled in and taking nine or more semester hours or  
16 its equivalent contact hours in graduate school;

17 (4) a dependent child over nineteen who is  
18 wholly dependent on the eligible retiree for maintenance and  
19 support and who is incapable of self-sustaining employment by  
20 reason of mental retardation or physical handicap; provided  
21 that proof of incapacity and dependency shall be provided  
22 within thirty-one days after the child reaches the limiting age  
23 and at such times thereafter as may be required by the board;

24 (5) a surviving spouse defined as follows:

25 (a) "surviving spouse" means the spouse

1 to whom a retiree was married at the time of death; or

2 (b) "surviving spouse" means the spouse  
3 to whom a deceased vested active employee was married at the  
4 time of death; or

5 (6) a surviving dependent child who is the  
6 dependent child of a deceased eligible retiree whose other  
7 parent is also deceased;

8 G. "eligible employer" means either:

9 (1) a "retirement system employer", which  
10 means an institution of higher education, a school district or  
11 other entity participating in the public school insurance  
12 authority, a state agency, state court, magistrate court,  
13 municipality, county or public entity, each of which is  
14 affiliated under or covered by the Educational Retirement Act,  
15 the Public Employees Retirement Act, the Judicial Retirement  
16 Act, the Magistrate Retirement Act or the Public Employees  
17 Retirement Reciprocity Act; or

18 (2) an "independent public employer", which  
19 means a municipality, county or public entity that is not a  
20 retirement system employer;

21 H. "eligible retiree" means:

22 (1) a "nonsalaried eligible participating  
23 entity governing authority member", which means a person who is  
24 not a retiree and who:

25 (a) has served without salary as a

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1 member of the governing authority of an employer eligible to  
2 participate in the benefits of the Retiree Health Care Act and  
3 is certified to be such by the executive director of the public  
4 school insurance authority;

5 (b) has maintained group health  
6 insurance coverage through that member's governing authority if  
7 such group health insurance coverage was available and offered  
8 to the member during the member's service as a member of the  
9 governing authority; and

10 (c) was participating in the group  
11 health insurance program under the Retiree Health Care Act  
12 prior to July 1, 1993; or

13 (d) notwithstanding the provisions of  
14 Subparagraphs (b) and (c) of this paragraph, is eligible under  
15 Subparagraph (a) of this paragraph and has applied before  
16 August 1, 1993 to the authority to participate in the program;

17 (2) a "salaried eligible participating entity  
18 governing authority member", which means a person who is not a  
19 retiree and who:

20 (a) has served with salary as a member  
21 of the governing authority of an employer eligible to  
22 participate in the benefits of the Retiree Health Care Act;

23 (b) has maintained group health  
24 insurance through that member's governing authority, if such  
25 group health insurance was available and offered to the member

1 during the member's service as a member of the governing  
2 authority; and

3 (c) was participating in the group  
4 health insurance program under the Retiree Health Care Act  
5 prior to July 1, 1993; or

6 (d) notwithstanding the provisions of  
7 Subparagraphs (b) and (c) of this paragraph, is eligible under  
8 Subparagraph (a) of this paragraph and has applied before  
9 August 1, 1993 to the authority to participate in the program;

10 (3) an "eligible participating retiree", which  
11 means a person who:

12 (a) falls within the definition of a  
13 retiree, has made contributions to the fund for at least five  
14 years prior to retirement and whose eligible employer during  
15 that period of time made contributions as a participant in the  
16 Retiree Health Care Act on the person's behalf, unless that  
17 person retires on or before July 1, 1995, in which event the  
18 time period required for employee and employer contributions  
19 shall become the period of time between July 1, 1990 and the  
20 date of retirement, and who is certified to be a retiree by the  
21 educational retirement director, the executive secretary of the  
22 public employees retirement board or the governing authority of  
23 an independent public employer;

24 (b) falls within the definition of a  
25 retiree, retired prior to July 1, 1990 and is certified to be a

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1 retiree by the educational retirement director, the executive  
2 secretary of the public employees retirement association or the  
3 governing authority of an independent public employer; but this  
4 paragraph does not include a retiree who was an employee of an  
5 eligible employer who exercised the option not to be a  
6 participating employer pursuant to the Retiree Health Care Act  
7 and did not after January 1, 1993 elect to become a  
8 participating employer; unless the retiree: 1) retired on or  
9 before June 30, 1990; and 2) at the time of retirement did not  
10 have a retirement health plan or retirement health insurance  
11 coverage available from [~~his~~] the retiree's employer; or

12 (c) is a retiree who: 1) was at the  
13 time of retirement an employee of an eligible employer who  
14 exercised the option not to be a participating employer  
15 pursuant to the Retiree Health Care Act, but which eligible  
16 employer subsequently elected after January 1, 1993 to become a  
17 participating employer; 2) has made contributions to the fund  
18 for at least five years prior to retirement and whose eligible  
19 employer during that period of time made contributions as a  
20 participant in the Retiree Health Care Act on the person's  
21 behalf, unless that person retires prior to the eligible  
22 employer's election to become a participating employer or less  
23 than five years after the date participation begins when the  
24 participation date begins before July 1, 2009, in which event  
25 the time period required for employee and employer

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1 contributions shall become the period of time, if any, between  
 2 the date participation begins and the date of retirement or  
 3 when the participation date begins on or after July 1, 2009, in  
 4 which event the person and employer shall contribute to the  
 5 fund an amount equal to at least five years of employee and  
 6 employer contributions; and 3) is certified to be a retiree by  
 7 the educational retirement director, the executive director of  
 8 the public employees retirement board or the governing  
 9 authority of an independent public employer;

10 (4) a "legislative member", which means a  
 11 person who is not a retiree and who served as a member of the  
 12 New Mexico legislature for at least two years, but is no longer  
 13 a member of the legislature and is certified to be such by the  
 14 legislative council service; or

15 (5) a "former participating employer governing  
 16 authority member", which means a person, other than a  
 17 nonsalaried eligible participating entity governing authority  
 18 member or a salaried eligible participating entity governing  
 19 authority member, who is not a retiree and who served as a  
 20 member of the governing authority of a participating employer  
 21 for at least four years but is no longer a member of the  
 22 governing authority and whose length of service is certified by  
 23 the chief executive officer of the participating employer;

24 I. "fund" means the retiree health care fund;

25 J. "group health insurance" means coverage that

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1 includes but is not limited to life insurance, accidental death  
2 and dismemberment, hospital care and benefits, surgical care  
3 and treatment, medical care and treatment, dental care, eye  
4 care, obstetrical benefits, prescribed drugs, medicines and  
5 prosthetic devices, medicare supplement, medicare carveout,  
6 medicare coordination and other benefits, supplies and services  
7 through the vehicles of indemnity coverages, health maintenance  
8 organizations, preferred provider organizations and other  
9 health care delivery systems as provided by the Retiree Health  
10 Care Act and other coverages considered by the board to be  
11 advisable;

12 K. "ineligible dependents" [~~include~~] includes:

13 (1) those dependents created by common law  
14 relationships;

15 (2) dependents while in active military  
16 service;

17 (3) parents, aunts, uncles, brothers, sisters,  
18 grandchildren and other family members left in the care of an  
19 eligible retiree without evidence of legal guardianship; and

20 (4) anyone not specifically referred to as an  
21 eligible dependent pursuant to the rules [~~and regulations~~]  
22 adopted by the board;

23 L. "participating employee" means an employee of a  
24 participating employer, which employee has not been expelled  
25 from participation in the Retiree Health Care Act pursuant to

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1 Section 10-7C-10 NMSA 1978;

2 M. "participating employer" means an eligible  
3 employer who has satisfied the conditions for participating in  
4 the benefits of the Retiree Health Care Act, including the  
5 requirements of Subsection M of Section 10-7C-7 NMSA 1978 and  
6 Subsection D or E of Section 10-7C-9 NMSA 1978, as applicable;

7 N. "public entity" means a flood control authority,  
8 economic development district, council of governments, regional  
9 housing authority, conservancy district or other special  
10 district or special purpose government; and

11 O. "retiree" means a person who:

12 (1) is receiving:

13 (a) a disability or normal retirement  
14 benefit or survivor's benefit pursuant to the Educational  
15 Retirement Act;

16 (b) a disability or normal retirement  
17 benefit or survivor's benefit pursuant to the Public Employees  
18 Retirement Act, the Judicial Retirement Act, the Magistrate  
19 Retirement Act or the Public Employees Retirement Reciprocity  
20 Act; or

21 (c) a disability or normal retirement  
22 benefit or survivor's benefit pursuant to the retirement  
23 program of an independent public employer to which that  
24 employer has made periodic contributions; or

25 (2) is not receiving a survivor's benefit but

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1 is the eligible dependent of a person who received a disability  
2 or normal retirement benefit pursuant to the Educational  
3 Retirement Act, the Public Employees Retirement Act, the  
4 Judicial Retirement Act, the Magistrate Retirement Act or the  
5 Public Employees Retirement Reciprocity Act."

6 Section 3. Section 10-7C-15 NMSA 1978 (being Laws 1990,  
7 Chapter 6, Section 15, as amended) is amended to read:

8 "10-7C-15. RETIREE HEALTH CARE FUND CONTRIBUTIONS.--

9 A. Following completion of the preliminary  
10 contribution period, each participating employer shall make  
11 contributions to the fund [~~in the amount of:~~

12 ~~(1) one percent of each participating~~  
13 ~~employee's annual salary for the period July 1, 1990 through~~  
14 ~~June 30, 2002; and~~

15 ~~(2) up to one and three-tenths percent of each~~  
16 ~~participating employee's annual salary beginning July 1, 2002]~~  
17 pursuant to the following provisions:

18 (1) for participating employees who are not  
19 members of an enhanced retirement plan, the employer's  
20 contribution shall equal:

21 (a) one and three-tenths percent of each  
22 participating employee's salary for the period from July 1,  
23 2002 through June 30, 2010;

24 (b) one and six hundred sixty-six  
25 thousandths percent of each participating employee's salary for

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1 the period from July 1, 2010 through June 30, 2011;

2 (c) one and eight hundred thirty-four  
3 thousandths percent of each participating employee's salary for  
4 the period from July 1, 2011 through June 30, 2012; and

5 (d) two percent of each participating  
6 employee's salary beginning July 1, 2012;

7 (2) for participating employees who are  
8 members of an enhanced retirement plan, the employer's  
9 contribution shall equal:

10 (a) one and three-tenths percent of each  
11 participating employee's salary for the period from July 1,  
12 2002 through June 30, 2010;

13 (b) two and eighty-four thousandths  
14 percent of each participating employee's salary for the period  
15 from July 1, 2010 through June 30, 2011;

16 (c) two and two hundred ninety-two  
17 thousandths percent of each participating employee's salary for  
18 the period from July 1, 2011 through June 30, 2012; and

19 (d) two and one-half percent of each  
20 participating employee's salary beginning July 1, 2012; and

21 (3) each employer that chooses to become a  
22 participating employer after January 1, 1998 shall make  
23 contributions to the fund in the amount determined to be  
24 appropriate by the board.

25 B. Following completion of the preliminary

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1 contribution period, each participating employee, as a  
2 condition of employment, shall contribute to the fund [~~an~~  
3 ~~employee contribution in an amount equal to:~~

4 ~~(1) one-half of one percent of the employee's~~  
5 ~~salary for the period July 1, 1990 through June 30, 2002; and~~

6 ~~(2) up to sixty-five hundredths of one percent~~  
7 ~~beginning July 1, 2002] pursuant to the following provisions:~~

8 (1) for a participating employee who is not a  
9 member of an enhanced retirement plan, the employee's  
10 contribution shall equal:

11 (a) sixty-five hundredths of one percent  
12 of the employee's salary for the period from July 1, 2002  
13 through June 30, 2010;

14 (b) eight hundred thirty-three  
15 thousandths of one percent of the employee's salary for the  
16 period from July 1, 2010 through June 30, 2011;

17 (c) nine hundred seventeen thousandths  
18 of one percent of the employee's salary for the period from  
19 July 1, 2011 through June 30, 2012; and

20 (d) one percent of the employee's salary  
21 beginning July 1, 2012;

22 (2) for a participating employee who is a  
23 member of an enhanced retirement plan, the employee's  
24 contribution shall equal:

25 (a) sixty-five hundredths of one percent

1 of the employee's salary for the period from July 1, 2002  
2 through June 30, 2010;

3 (b) one and forty-two thousandths  
4 percent of the employee's salary for the period from July 1,  
5 2010 through June 30, 2011;

6 (c) one and one hundred forty-six  
7 thousandths percent of the employee's salary for the period  
8 from July 1, 2011 through June 30, 2012; and

9 (d) one and one-fourth percent of the  
10 employee's salary beginning July 1, 2012; and

11 (3) as a condition of employment, each  
12 participating employee of an employer that chooses to become a  
13 participating employer after January 1, 1998 shall contribute  
14 to the fund an amount that is determined to be appropriate by  
15 the board. Each month, participating employers shall deduct  
16 the contribution from the participating employee's salary and  
17 shall remit it to the board as provided by any procedures that  
18 the board may require.

19 C. On or after July 1, 2009, no person who has  
20 obtained service credit pursuant to Subsection B of Section  
21 10-11-6 NMSA 1978, Section 10-11-7 NMSA 1978 or Paragraph (3)  
22 or (4) of Subsection A of Section 22-11-34 NMSA 1978 may enroll  
23 with the authority unless the person makes a contribution to  
24 the fund equal to the full actuarial present value of the  
25 amount of the increase in the person's health care benefit, as

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1 determined by the authority.

2           ~~[G-]~~ D. Except for contributions made pursuant to  
3 Subsection C of this section, a participating employer that  
4 fails to remit before the tenth day after the last day of the  
5 month all employer and employee deposits required by the  
6 Retiree Health Care Act to be remitted by the employer for the  
7 month shall pay to the fund, in addition to the deposits,  
8 interest on the unpaid amounts at the rate of six percent per  
9 year compounded monthly.

10           ~~[D-]~~ E. Except for contributions made pursuant to  
11 Subsection C of this section, the employer and employee  
12 contributions shall be paid in monthly installments based on  
13 the percent of payroll certified by the employer.

14           ~~[E-]~~ F. Except in the case of erroneously made  
15 contributions or as may be otherwise provided in Subsection D  
16 of Section 10-7C-9 NMSA 1978, contributions from participating  
17 employers and participating employees shall become the property  
18 of the fund on receipt by the board and shall not be refunded  
19 under any circumstances, including termination of employment or  
20 termination of the participating employer's operation or  
21 participation in the Retiree Health Care Act.

22           ~~[F-]~~ G. Notwithstanding any other provision in the  
23 Retiree Health Care Act and at the first session of the  
24 legislature following July 1, [2010] 2013, the legislature  
25 shall review and adjust the [distribution] distributions

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1 pursuant to Section 7-1-6.1 NMSA 1978 and the employer and  
 2 employee contributions to the authority in order to ensure the  
 3 actuarial soundness of the benefits provided under the Retiree  
 4 Health Care Act.

5 H. As used in this section, "member of an enhanced  
 6 retirement plan" means:

7 (1) a member of the public employees  
 8 retirement association who, pursuant to the Public Employees  
 9 Retirement Act, is included in:

10 (a) state police member and adult  
 11 correctional officer member coverage plan 1;

12 (b) municipal police member coverage  
 13 plan 3, 4 or 5;

14 (c) municipal fire member coverage plan  
 15 3, 4 or 5; or

16 (d) municipal detention officer member  
 17 coverage plan 1; or

18 (2) a member pursuant to the provisions of the  
 19 Judicial Retirement Act."

20 Section 4. Section 10-11-6 NMSA 1978 (being Laws 1987,  
 21 Chapter 253, Section 6, as amended) is amended to read:

22 "10-11-6. [~~CREDITED~~] SERVICE CREDIT--CREDIT FOR  
 23 INTERVENING MILITARY AND UNITED STATES GOVERNMENT SERVICE.--

24 A. A member who leaves the employ of an affiliated  
 25 public employer to enter a uniformed service of the United

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1 States shall be given service credit for periods of service in  
2 the uniformed services subject to the following conditions:

3 (1) the member is reemployed by an affiliated  
4 public employer within ninety days following termination of the  
5 period of intervening [~~erving~~] service in the uniformed  
6 service or the affiliated employer certifies in writing to the  
7 association that the member is entitled to reemployment rights  
8 under the federal Uniformed Services Employment and  
9 Reemployment Rights Act of 1994;

10 (2) the member retains membership in the  
11 association during the period of service in the uniformed  
12 services;

13 (3) free service credit shall not be given for  
14 periods of intervening service in the uniformed services  
15 following voluntary reenlistment. Service credit for such  
16 periods shall be given only after the member pays the  
17 association the sum of the contributions that the person would  
18 have been required to contribute had the person remained  
19 continuously employed throughout the period of intervening  
20 service following voluntary reenlistment, which payment shall  
21 be made during the period beginning with the date of  
22 reemployment and whose duration is three times the period of  
23 the person's intervening service in the uniformed services  
24 following voluntary reenlistment, not to exceed five years;

25 (4) service credit shall not be given for

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1 periods of intervening service in the uniformed services that  
2 are used to obtain or increase a benefit from another state  
3 system or the retirement program provided under the Educational  
4 Retirement Act; [~~and~~]

5 (5) the member must not have received a  
6 discharge or separation from uniformed service under other than  
7 honorable conditions; and

8 (6) notwithstanding any provision of this plan  
9 to the contrary, contributions, benefits and service credit  
10 with respect to qualified military service will be provided in  
11 accordance with Section 414(u) of the Internal Revenue Code of  
12 1986, as amended.

13 B. For a member who is subsequently employed by the  
14 government of the United States within thirty days of leaving  
15 the employ of an affiliated public employer:

16 (1) that member may continue membership in the  
17 association subject to the following conditions:

18 (a) the member has fifteen or more years  
19 of [~~credited~~] service credit;

20 (b) employment by the government of the  
21 United States commences within ninety days of termination of  
22 employment with the last affiliated public employer;

23 (c) the member files with the  
24 association a written application for continued membership  
25 within ninety days of termination of employment with the last

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1 affiliated public employer; and

2 (d) the member remits to the  
3 association, at the times and in the manner prescribed by the  
4 association, the member contributions and the employer  
5 contributions that would have been made had the member  
6 continued in the employ of the last affiliated public employer;

7 (2) the contributions required by Paragraph  
8 (1) of this subsection shall be based on a salary equal to the  
9 member's monthly salary at time of termination of employment  
10 with the last affiliated public employer;

11 (3) [~~credited~~] service credit will be  
12 determined as if the employment by the government of the United  
13 States was rendered the last affiliated public employer; [~~and~~]

14 (4) the employer contributions remitted by the  
15 member shall be credited to the [~~employer~~] employer's  
16 accumulation fund and shall not be paid out of the association  
17 in the event of subsequent cessation of membership; and

18 (5) a member receiving service credit under  
19 this subsection who enrolls in the retiree health care  
20 authority shall make contributions pursuant to Subsection C of  
21 Section 10-7C-15 NMSA 1978."

22 Section 5. Section 10-11-7 NMSA 1978 (being Laws 1987,  
23 Chapter 253, Section 7, as amended) is amended to read:

24 "10-11-7. [~~CREDITED~~] SERVICE CREDIT--PURCHASE OF  
25 SERVICE.--

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1           A. A member who entered a uniformed service of the  
2 United States may purchase service credit for periods of active  
3 duty in the uniformed services subject to the following  
4 conditions:

5                   (1) the member pays the association the  
6 purchase cost determined according to Subsection E of this  
7 section;

8                   (2) the member has five or more years of  
9 service credit acquired as a result of personal service  
10 rendered in the employ of an affiliated public employer;

11                   (3) the aggregate amount of service credit  
12 purchased pursuant to this subsection does not exceed five  
13 years reduced by any period of service credit acquired for  
14 military service pursuant to any other provision of the Public  
15 Employees Retirement Act;

16                   (4) service credit may not be purchased for  
17 periods of service in the uniformed services that are used to  
18 obtain or increase a benefit from another retirement program;  
19 and

20                   (5) the member must not have received a  
21 discharge or separation from uniformed service under other than  
22 honorable conditions.

23           B. A member who was a civilian prisoner of war  
24 captured while in service to the United States as an employee  
25 of the federal government or as an employee of a contractor

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1 with the federal government may purchase service credit for the  
2 period of internment as a civilian prisoner of war, provided  
3 that:

4 (1) the member provides proof of employment  
5 with the federal government or as a contractor to the federal  
6 government in a form acceptable to the association;

7 (2) the member provides proof of the period of  
8 internment in a form acceptable to the association;

9 (3) the member has at least five years of  
10 service credit acquired as a result of personal service  
11 rendered in the employ of an affiliated public employer;

12 (4) the aggregate amount of service credit  
13 purchased pursuant to this subsection does not exceed five  
14 years reduced by any period of service credit acquired for  
15 military service pursuant to any other provision of the Public  
16 Employees Retirement Act;

17 (5) service credit may not be purchased for  
18 periods of service in internment as a civilian prisoner of war  
19 if such periods are used to obtain or increase a benefit from  
20 another retirement program; and

21 (6) the member pays the association the  
22 purchase cost determined according to Subsection E of this  
23 section.

24 C. A member who was employed by a utility company,  
25 library, museum, transit company or nonprofit organization

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1 administering federally funded public service programs, which  
2 utility company, library, museum, transit company or nonprofit  
3 organization administering federally funded public service  
4 programs or federally funded public service programs  
5 administered by a nonprofit organization are subsequently taken  
6 over by an affiliated public employer, or a member who was  
7 employed by an entity created pursuant to a joint powers  
8 agreement between two or more affiliated public employers for  
9 the purpose of administering or providing drug or alcohol  
10 addiction treatment services irrespective of whether the entity  
11 is subsequently taken over by an affiliated public employer,  
12 may purchase [~~credited~~] service credit for the period of  
13 employment subject to the following conditions:

14 (1) the member pays the association the  
15 purchase cost determined according to Subsection E of this  
16 section;

17 (2) the member has five or more years of  
18 [~~credited~~] service credit acquired as a result of personal  
19 service rendered in the employ of an affiliated public  
20 employer; and

21 (3) the aggregate amount of [~~credited~~] service  
22 credit purchased pursuant to this subsection does not exceed  
23 five years.

24 D. A member who was appointed to participate in a  
25 cooperative work study training program established jointly by

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1 a state agency and a state post-secondary educational  
2 institution may purchase [~~credited~~] service credit for the  
3 period of participation subject to the following conditions:

4 (1) the member pays the association the full  
5 actuarial present value of the amount of the increase in the  
6 employee's pension as a consequence of the purchase as  
7 determined by the association;

8 (2) the member pays the full cost of the  
9 purchase within sixty days of the date the member is informed  
10 of the amount of the payment;

11 (3) the member has five or more years of  
12 [~~credited~~] service credit acquired as a result of personal  
13 service rendered in the employ of an affiliated public  
14 employer; and

15 (4) the aggregate amount of [~~credited~~] service  
16 credit purchased pursuant to this subsection does not exceed  
17 five years.

18 E. Except for service to be used under a state  
19 legislator coverage plan, the purchase cost for each month of  
20 [~~credited~~] service credit purchased pursuant to the provisions  
21 of this section is equal to the member's final average salary  
22 multiplied by the sum of the member contribution rate and  
23 employer contribution rate, determined in accordance with the  
24 coverage plan applicable to the member at the time of the  
25 written election to purchase. The purchase cost for each year

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1 of [~~credited~~] service credit to be used under a state  
2 legislator coverage plan is equal to three times the normal  
3 member contribution per year of [~~credited~~] service credit under  
4 the state legislator coverage plan applicable to the member.  
5 Full payment shall be made in a single lump sum within sixty  
6 days of the date the member is informed of the amount of the  
7 payment. The portion of the purchase cost derived from the  
8 employer contribution rate shall be credited to the employer's  
9 accumulation fund and shall not be paid out of the association  
10 in the event of cessation of membership. In no case shall a  
11 member be credited with a month of service for less than the  
12 purchase cost as defined in this section.

13 F. A member shall be refunded, upon written request  
14 filed with the association, the portion of the purchase cost of  
15 [~~credited~~] service credit purchased pursuant to this section  
16 that the association determines to have been unnecessary to  
17 provide the member with the maximum pension applicable to the  
18 member. The association shall not pay interest on the portion  
19 of the purchase cost refunded to the member.

20 G. A member of the magistrate retirement system who  
21 during the member's service as a magistrate was eligible to  
22 become a member of the public employees retirement system and  
23 elected not to become a member of that system may purchase  
24 service credit pursuant to the public employees retirement  
25 system for the period for which the magistrate elected not to

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1 become a public employees retirement system member, by paying  
2 the amount of the increase in the actuarial present value of  
3 the magistrate pension as a consequence of the purchase as  
4 determined by the association. Full payment shall be made in a  
5 single lump-sum amount in accordance with procedures  
6 established by the retirement board. Except as provided in  
7 Subsection F of this section, seventy-five percent of the  
8 purchase cost shall be considered to be employer contributions  
9 and shall not be refunded to the member in the event of  
10 cessation of membership.

11 H. At any time prior to retirement, any member may  
12 purchase service credit in monthly increments, subject to the  
13 following conditions:

14 (1) the member has at least five years of  
15 service credit acquired as a result of personal service  
16 rendered in the employ of an affiliated public employer;

17 (2) the aggregate amount of service credit  
18 purchased pursuant to this subsection does not exceed one  
19 year;

20 (3) the member pays full actuarial present  
21 value of the amount of the increase in the employee's pension  
22 as a consequence of the purchase as determined by the  
23 association;

24 (4) the member pays the full cost of the  
25 purchase within sixty days of the date the member is informed

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1 of the amount of the payment; and

2 (5) the purchase of service credit under this  
3 subsection cannot be used to determine the final average salary  
4 or the pension factor or be used to exceed the pension maximum.

5 I. A member receiving service credit under this  
6 section who enrolls in the retiree health care authority shall  
7 make contributions pursuant to Subsection C of Section 10-7C-15  
8 NMSA 1978."

9 Section 6. Section 10-11-8 NMSA 1978 (being Laws 1987,  
10 Chapter 253, Section 8, as amended by Laws 2004, Chapter 2,  
11 Section 1 and by Laws 2004, Chapter 68, Section 4) is amended  
12 to read:

13 "10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT--  
14 BENEFITS CONTINUED FOR CERTAIN RETIRED MEMBERS--EMPLOYER  
15 CONTRIBUTIONS.--

16 A. A member may retire upon fulfilling the  
17 following requirements prior to the selected date of  
18 retirement:

19 (1) a written application for normal  
20 retirement, in the form prescribed by the association, is filed  
21 with the association;

22 (2) employment is terminated with all  
23 employers covered by any state system or the educational  
24 retirement system;

25 (3) the member selects an effective date of

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1 retirement that is the first day of a calendar month; and

2 (4) the member meets the age and service  
3 credit requirement for normal retirement specified in the  
4 coverage plan applicable to the member.

5 B. The amount of normal retirement pension is  
6 determined in accordance with the coverage plan applicable to  
7 the member.

8 C. Except as provided in Subsection D or [E] F of  
9 this section, a retired member may be subsequently employed by  
10 an affiliated public employer [~~if the following conditions~~  
11 ~~apply:~~

12 ~~(1) the member has not been employed as an~~  
13 ~~employee of an affiliated public employer for at least ninety~~  
14 ~~consecutive days from the date of retirement to the~~  
15 ~~commencement of employment or reemployment with an affiliated~~  
16 ~~public employer. If the retired member returns to employment~~  
17 ~~without first completing ninety consecutive days of~~  
18 ~~retirement:~~

19 ~~(a) the retired member's pension shall~~  
20 ~~be suspended immediately and the previously retired member~~  
21 ~~shall become a member; and~~

22 ~~(b) upon termination of the subsequent~~  
23 ~~employment, the previously retired member's pension shall be~~  
24 ~~calculated pursuant to Paragraph (2) of Subsection E of this~~  
25 ~~section] pursuant to the following provisions:~~

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1                   (1) for a retired member who has returned to  
2 work prior to July 1, 2009:

3                   (a) the retired member shall not have  
4 been employed as an employee of an affiliated public employer  
5 for at least ninety consecutive days from the date of  
6 retirement to the commencement of reemployment;

7                   (b) except as provided in Subparagraphs  
8 (c), (d) and (e) of this paragraph, the retired member shall be  
9 subject to the provisions of Subparagraph (f) of this paragraph  
10 on the earlier of: 1) the date that the employment is  
11 terminated; or 2) July 1, 2010;

12                   (c) if the governing body of the  
13 affiliated public employer adopts a resolution declaring that  
14 the employment of the retired member will fill a critical need  
15 of the affiliated public employer and the governing body files  
16 a copy of the resolution with the retirement board, a retired  
17 member shall not be subject to the provisions of Subparagraph  
18 (f) of this paragraph until the date specified in Subparagraph  
19 (d) or (e) of this paragraph;

20                   (d) except as provided in Subparagraph  
21 (e) of this paragraph, a retired member for whom a resolution  
22 has been adopted by a governing body pursuant to Subparagraph  
23 (c) of this paragraph shall be subject to the provisions of  
24 Subparagraph (f) of this paragraph on the earlier of: 1) the  
25 day that the employment is terminated; or 2) July 1, 2012;

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1                   (e) if, on and after July 1, 2012, the  
2 retired member is employed only by a small public employer  
3 whose governing body has adopted a resolution pursuant to  
4 Subparagraph (c) of this paragraph, the retired member shall  
5 not be subject to the provisions of Subparagraph (f) of this  
6 paragraph until the earlier of: 1) the date that the  
7 employment by the small public employer is terminated; or 2)  
8 July 1, 2015; and

9                   (f) once subjected to the provisions of  
10 this subparagraph by Subparagraph (b), (d) or (e) of this  
11 paragraph: 1) the retired member's pension shall be suspended  
12 on the first day of the month following the month in which the  
13 retired member's earnings from the subsequent employment exceed  
14 thirty thousand dollars (\$30,000) in a calendar year; and 2)  
15 the retired member shall not be eligible to return to work  
16 under any other provision of this subsection;

17                   (2) for a retired member who returns to work  
18 on or after July 1, 2009:

19                   (a) unless the retired member qualifies  
20 pursuant to Subparagraph (d) or (e) of this paragraph, the  
21 retired member shall not have been employed as an employee of  
22 an affiliated public employer for at least twelve consecutive  
23 months from the date of retirement to the commencement of  
24 reemployment, or, if the retired member qualifies pursuant to  
25 Subparagraph (c), (d) or (e) of this paragraph, the retired

1 member shall not have been employed as an employee of an  
2 affiliated public employer for at least ninety consecutive days  
3 from the date of retirement to the commencement of  
4 reemployment;

5 (b) the retired member shall be, at the  
6 time of retirement, sixty-five years of age or older or shall  
7 have earned sufficient service credit for the maximum pension  
8 available under the retired member's coverage plan. A retired  
9 member shall not return to work without meeting the criteria  
10 specified in this subparagraph unless the pension of the  
11 retired member is suspended;

12 (c) the retired member shall be subject  
13 to the provisions of Subparagraph (f) of this paragraph unless  
14 the governing body of the affiliated public employer adopts a  
15 resolution declaring that the subsequent employment of the  
16 retired member will fill a critical need of the affiliated  
17 public employer and the governing body files a copy of the  
18 resolution with the retirement board;

19 (d) except as provided in Subparagraph  
20 (e) of this paragraph, a retired member for whom a resolution  
21 has been adopted by a governing body pursuant to Subparagraph  
22 (c) of this paragraph shall be subject to the provisions of  
23 Subparagraph (f) of this paragraph on the earlier of: 1) the  
24 day that the employment is terminated; or 2) the day  
25 immediately following the two-year anniversary of the

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1 commencement of reemployment;

2 (e) if, on and after the day immediately  
3 following the two-year anniversary of the commencement of  
4 reemployment, the retired member is employed only by a small  
5 public employer whose governing body has adopted a resolution  
6 pursuant to Subparagraph (c) of this paragraph, the retired  
7 member shall not be subject to the provisions of Subparagraph  
8 (f) of this paragraph until the earlier of the day: 1) that  
9 the employment by the small public employer is terminated; or  
10 2) immediately following the five-year anniversary of the  
11 commencement of reemployment; and

12 (f) once subjected to the provisions of  
13 this subparagraph by Subparagraph (c), (d) or (e) of this  
14 paragraph: 1) the retired member's pension shall be suspended  
15 on the first day of the month following the month in which the  
16 retired member's earnings from the subsequent employment exceed  
17 thirty thousand dollars (\$30,000) in a calendar year; and 2)  
18 the retired member shall not be eligible to return to work  
19 under any other provision of this subsection;

20 (3) as used in Paragraphs (1) and (2) of this  
21 subsection:

22 (a) "governing body" means: 1) the  
23 governing body of the political subdivision if the affiliated  
24 public employer is a political subdivision of the state; 2) the  
25 supreme court if the affiliated public employer is in the

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1 judicial branch of state government; 3) the district attorney  
 2 personnel review board if the affiliated public employer is a  
 3 district attorney; 4) the New Mexico legislative council if the  
 4 affiliated public employer is in the legislative branch of  
 5 state government; or 5) the personnel board if the affiliated  
 6 public employer is not included in Item 1), 2), 3) or 4) of  
 7 this subparagraph; and

8 (b) "small public employer" means an  
 9 affiliated public employer that is a political subdivision with  
 10 a population, as shown in the most recent federal decennial  
 11 census, of less than fifty thousand;

12 (4) if the retired member returns to  
 13 employment pursuant to Paragraph (1) or (2) of this subsection  
 14 without first completing the required ninety consecutive days  
 15 or twelve consecutive months of break-in service, the retired  
 16 member's pension shall be suspended immediately;

17 ~~[(2) effective the first day of the month~~  
 18 ~~following the month in which the retired member's earnings~~  
 19 ~~total twenty-five thousand dollars (\$25,000) during a calendar~~  
 20 ~~year]~~

21 (5) a retired member who returns to employment  
 22 shall be required to make contributions to the fund as  
 23 specified in the Public Employees Retirement Act [provided,  
 24 however, that after December 31, 2006, no additional  
 25 contributions shall be required pursuant to this paragraph] or

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1 in a higher amount adjusted for full actuarial cost as  
2 determined annually by the association;

3 [~~3~~] (6) until the subsequent employment is  
4 terminated, the affiliated public employer that employs the  
5 retired member shall make contributions to the fund in the  
6 amount specified in the Public Employees Retirement Act or in a  
7 higher amount adjusted for full actuarial cost as determined  
8 annually by the association; ~~and~~

9 ~~(4)~~ (7) a retired member who returns to  
10 employment during retirement pursuant to this subsection is  
11 entitled to receive retirement benefits but is not entitled to  
12 acquire service credit or to acquire or purchase service credit  
13 in the future for the period of the retired member's  
14 reemployment with an affiliated public employer; and

15 (8) until the subsequent employment is  
16 terminated, both the retired member and the affiliated public  
17 employer that employs the retired member shall make  
18 contributions to the retiree health care fund in the amount  
19 specified in Subsections A and B of Section 10-7C-15 NMSA 1978.

20 D. ~~[The provisions of Paragraphs (2) and (3) of~~  
21 ~~Subsection C of this section that require employee or employer~~  
22 ~~contributions]~~ Except for the provisions of Paragraphs (7) and  
23 (8) of Subsection C of this section, the provisions of the  
24 other paragraphs of that subsection do not apply to:

25 (1) a retired member who is appointed chief of

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1 police of an affiliated public employer, other than the  
 2 affiliated public employer from which the retired member  
 3 retired, or who is appointed undersheriff; provided that:

4 (a) the retired member files an  
 5 irrevocable exemption from membership with the association  
 6 within thirty days of appointment;

7 (b) each sheriff's office shall be  
 8 limited to one undersheriff qualifying pursuant to this  
 9 paragraph;

10 (c) the irrevocable exemption shall be  
 11 for the chief of police's or the undersheriff's term of office;  
 12 and

13 (d) filing an irrevocable exemption  
 14 shall irrevocably bar the retired member from acquiring service  
 15 credit for the period of exemption from membership; [~~or~~]

16 (2) a retired member employed by the  
 17 legislature for legislative session work; or

18 (3) a retired member who is elected on or  
 19 after July 1, 2009 to serve a term as an elected official;  
 20 provided that:

21 (a) the retired member files an  
 22 irrevocable exemption from membership with the association  
 23 within thirty days of taking office; and

24 (b) the irrevocable exemption shall be  
 25 for the elected official's term of office.

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1           E. At any time during a retired member's subsequent  
2 employment pursuant to Subsection C of this section, the  
3 retired member may elect to suspend the pension.

4           F. When [~~the~~] a pension is suspended pursuant to  
5 the provisions of this section, the following conditions shall  
6 apply:

7                       (1) the retired member who is subsequently  
8 employed by an affiliated public employer shall become a  
9 member. The previously retired member and the subsequent  
10 affiliated public employer shall make the required employee and  
11 employer contributions, and the previously retired member shall  
12 accrue service credit for the period of subsequent employment;  
13 and

14                      (2) when a previously retired member  
15 terminates the subsequent employment with an affiliated public  
16 employer, [~~he~~] the previously retired member shall retire  
17 according to the provisions of the Public Employees Retirement  
18 Act, subject to the following conditions:

19                               (a) payment of the pension shall resume  
20 in accordance with the provisions of Subsection A of this  
21 section;

22                               (b) unless the previously retired member  
23 accrued at least three years of service credit on account of  
24 the subsequent employment, the recalculation of pension shall:

25                               1) employ the form of payment selected by the previously

1 retired member at the time of the first retirement; and 2) use  
2 the provisions of the coverage plan applicable to the member on  
3 the date of the first retirement; and

4 (c) the recalculated pension shall not  
5 be less than the amount of the suspended pension.

6 [~~F-~~] G. The pension of a member who has three or  
7 more years of service credit under each of two or more coverage  
8 plans shall be determined in accordance with the coverage plan  
9 that produces the highest pension. The pension of a member who  
10 has service credit under two or more coverage plans but who has  
11 three or more years of service credit under only one of those  
12 coverage plans shall be determined in accordance with the  
13 coverage plan in which the member has three or more years of  
14 service credit. If the service credit is acquired under two  
15 different coverage plans applied to the same affiliated public  
16 employer as a consequence of an election by the members,  
17 adoption by the affiliated public employer or a change in the  
18 law that results in the application of a coverage plan with a  
19 greater pension, the greater pension shall be paid a member  
20 retiring from the affiliated public employer under which the  
21 change in coverage plan took place regardless of the amount of  
22 service credit under the coverage plan producing the greater  
23 pension; provided the member has three or more years of  
24 continuous employment with that affiliated public employer  
25 immediately preceding or immediately preceding and immediately

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1 following the date the coverage plan changed. The provisions  
2 of each coverage plan for the purpose of this subsection shall  
3 be those in effect at the time the member ceased to be covered  
4 by the coverage plan. "Service credit", for the purposes of  
5 this subsection, shall be only personal service rendered an  
6 affiliated public employer and credited to the member under the  
7 provisions of Subsection A of Section 10-11-4 NMSA 1978.  
8 Service credited under any other provision of the Public  
9 Employees Retirement Act shall not be used to satisfy the  
10 three-year service credit requirement of this subsection."

11 Section 7. Section 10-11-26.2 NMSA 1978 (being Laws 1994,  
12 Chapter 128, Section 3) is amended to read:

13 "10-11-26.2. STATE GENERAL MEMBER COVERAGE PLAN 3--AGE  
14 AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT.--

15 A. Under state general member coverage plan 3:

16 (1) for a member who is a peace officer and  
17 for a member who is not a peace officer but was a retired  
18 member or a member on June 30, 2009, the age and service credit  
19 requirements for normal retirement are:

20 ~~[A.]~~ (a) age sixty-five years or older  
21 and five or more years of service credit;

22 ~~[B.]~~ (b) age sixty-four years and eight  
23 or more years of service credit;

24 ~~[C.]~~ (c) age sixty-three years and  
25 eleven or more years of service credit;

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1                   ~~[D-]~~ (d) age sixty-two years and  
2 fourteen or more years of service credit;

3                   ~~[E-]~~ (e) age sixty-one years and  
4 seventeen or more years of service credit;

5                   ~~[F-]~~ (f) age sixty years and twenty or  
6 more years of service credit; and

7                   ~~[G-]~~ (g) any age and twenty-five or more  
8 years of service credit; and

9                   (2) for a member who is not a peace officer  
10 and was not a retired member or a member on June 30, 2009, the  
11 age and service requirements for normal retirement are:

12                           (a) age sixty-seven years or older and  
13 five or more years of service credit;

14                           (b) age sixty-six years and seven or  
15 more years of service credit;

16                           (c) age sixty-five years and eight or  
17 more years of service credit;

18                           (d) age sixty-four years and ten or more  
19 years of service credit;

20                           (e) age sixty-three years and thirteen  
21 or more years of service credit;

22                           (f) age sixty-two years and sixteen or  
23 more years of service credit;

24                           (g) age sixty-one years and nineteen or  
25 more years of service credit;

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1 officer member coverage plan 1, a member shall have actual  
 2 service credit increased by twenty percent if that member was a  
 3 retired member or a member on June 30, 2009 and:

4 (1) is a state police member who holds the  
 5 permanent rank of patrolman, sergeant, lieutenant or captain  
 6 and does not hold an exempt rank;

7 (2) is a state police member who is assigned  
 8 to the aircraft division as a pilot; or

9 (3) is an adult correctional officer member.

10 B. State police member and adult correctional  
 11 officer member coverage plan 1 is applicable to adult  
 12 correctional officer members in the first full pay period after  
 13 July 1, 2004 if the retirement board certifies to the secretary  
 14 of state that, of those adult correctional officer members to  
 15 be covered under state police member and adult correctional  
 16 officer member coverage plan 1, a majority of the members  
 17 voting have voted to approve adoption of that plan at an  
 18 election conducted pursuant to [~~Section 16 of this 2003 act~~]  
 19 Laws 2003, Chapter 268, Section 16."

20 Section 9. Section 10-11-45 NMSA 1978 (being Laws 1987,  
 21 Chapter 253, Section 45) is amended to read:

22 "10-11-45. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 1--AGE  
 23 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under  
 24 municipal general member coverage plan 1:

25 A. for a member who was a retired member or a

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1 member on June 30, 2009, the age and service requirements for  
2 normal retirement are:

3 [A-] (1) age sixty-five years or older and  
4 five or more years of [ereditad] service credit;

5 [B-] (2) age sixty-four years and eight or  
6 more years of [ereditad] service credit;

7 [C-] (3) age sixty-three years and eleven or  
8 more years of [ereditad] service credit;

9 [D-] (4) age sixty-two years and fourteen or  
10 more years of [ereditad] service credit;

11 [E-] (5) age sixty-one years and seventeen or  
12 more years of [ereditad] service credit;

13 [F-] (6) age sixty years and twenty or more  
14 years of [ereditad] service credit; or

15 [G-] (7) any age and twenty-five or more years  
16 of [ereditad] service credit; and

17 B. for a member who was not a retired member or a  
18 member on June 30, 2009, the age and service requirements for  
19 normal retirement are:

20 (1) age sixty-seven years or older and five or  
21 more years of service credit;

22 (2) age sixty-six years and seven or more  
23 years of service credit;

24 (3) age sixty-five years and eight or more  
25 years of service credit;

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1                   (4) age sixty-four years and ten or more years  
2 of service credit;

3                   (5) age sixty-three years and thirteen or more  
4 years of service credit;

5                   (6) age sixty-two years and sixteen or more  
6 years of service credit;

7                   (7) age sixty-one years and nineteen or more  
8 years of service credit;

9                   (8) age sixty years and twenty or more years  
10 of service credit; or

11                   (9) any age and thirty or more years of  
12 service credit."

13           Section 10. Section 10-11-51 NMSA 1978 (being Laws 1987,  
14 Chapter 253, Section 51) is amended to read:

15           "10-11-51. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 2--AGE  
16 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under  
17 municipal general member coverage plan 2:

18           A. for a member who was a retired member or a  
19 member on June 30, 2009, the age and service requirements for  
20 normal retirement are:

21                   [~~A.~~] (1) age sixty-five years or older and  
22 five or more years of [~~credited~~] service credit;

23                   [~~B.~~] (2) age sixty-four years and eight or  
24 more years of [~~credited~~] service credit;

25                   [~~C.~~] (3) age sixty-three years and eleven or

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1 more years of [~~eredit~~] service credit;

2                   [~~D-~~] (4) age sixty-two years and fourteen or  
3 more years of [~~eredit~~] service credit;

4                   [~~E-~~] (5) age sixty-one years and seventeen or  
5 more years of [~~eredit~~] service credit;

6                   [~~F-~~] (6) age sixty years and twenty or more  
7 years of [~~eredit~~] service credit; or

8                   [~~G-~~] (7) any age and twenty-five or more years  
9 of [~~eredit~~] service credit; and

10                   B. for a member who was not a retired member or a  
11 member on June 30, 2009, the age and service requirements for  
12 normal retirement are:

13                               (1) age sixty-seven years or older and five or  
14 more years of service credit;

15                               (2) age sixty-six years and seven or more  
16 years of service credit;

17                               (3) age sixty-five years and eight or more  
18 years of service credit;

19                               (4) age sixty-four years and ten or more years  
20 of service credit;

21                               (5) age sixty-three years and thirteen or more  
22 years of service credit;

23                               (6) age sixty-two years and sixteen or more  
24 years of service credit;

25                               (7) age sixty-one years and nineteen or more

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1 years of service credit;

2 (8) age sixty years and twenty or more years  
3 of service credit; or

4 (9) any age and thirty or more years of  
5 service credit."

6 Section 11. Section 10-11-55.2 NMSA 1978 (being Laws  
7 1993, Chapter 58, Section 2) is amended to read:

8 "10-11-55.2. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 3--  
9 AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under  
10 municipal general member coverage plan 3:

11 A. for a member who was a retired member or a  
12 member on June 30, 2009, the age and service requirements for  
13 normal retirement are:

14 [~~A.~~] (1) age sixty-five years or older and  
15 five or more years of [~~credited~~] service credit;

16 [~~B.~~] (2) age sixty-four years and eight or  
17 more years of [~~credited~~] service credit;

18 [~~C.~~] (3) age sixty-three years and eleven or  
19 more years of [~~credited~~] service credit;

20 [~~D.~~] (4) age sixty-two years and fourteen or  
21 more years of [~~credited~~] service credit;

22 [~~E.~~] (5) age sixty-one years and seventeen or  
23 more years of [~~credited~~] service credit;

24 [~~F.~~] (6) age sixty years and twenty or more  
25 years of [~~credited~~] service credit; or

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1                   ~~[6-]~~ (7) any age and twenty-five or more years  
2 of ~~[credited]~~ service credit; and

3                   B. for a member who was not a retired member or a  
4 member on June 30, 2009, the age and service requirements for  
5 normal retirement are:

6                   (1) age sixty-seven years or older and five or  
7 more years of service credit;

8                   (2) age sixty-six years and seven or more  
9 years of service credit;

10                  (3) age sixty-five years and eight or more  
11 years of service credit;

12                  (4) age sixty-four years and ten or more years  
13 of service credit;

14                  (5) age sixty-three years and thirteen or more  
15 years of service credit;

16                  (6) age sixty-two years and sixteen or more  
17 years of service credit;

18                  (7) age sixty-one years and nineteen or more  
19 years of service credit;

20                  (8) age sixty years and twenty or more years  
21 of service credit; or

22                  (9) any age and thirty or more years of  
23 service credit."

24                  Section 12. Section 10-11-55.8 NMSA 1978 (being Laws  
25 1998, Chapter 106, Section 2) is amended to read:

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underscored material = new  
[bracketed material] = delete

1           "10-11-55.8. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--  
2 AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under  
3 municipal general member coverage plan 4:

4           A. for a member who was a retired member or a  
5 member on June 30, 2009, the age and service requirements for  
6 normal retirement are:

7                   [~~A.~~] (1) age sixty-five years or older and  
8 five or more years of [~~credited~~] service credit;

9                   [~~B.~~] (2) age sixty-four years and eight or  
10 more years of [~~credited~~] service credit;

11                   [~~C.~~] (3) age sixty-three years and eleven or  
12 more years of [~~credited~~] service credit;

13                   [~~D.~~] (4) age sixty-two years and fourteen or  
14 more years of [~~credited~~] service credit;

15                   [~~E.~~] (5) age sixty-one years and seventeen or  
16 more years of [~~credited~~] service credit;

17                   [~~F.~~] (6) age sixty years and twenty or more  
18 years of [~~credited~~] service credit; or

19                   [~~G.~~] (7) any age and twenty-five or more years  
20 of [~~credited~~] service credit; and

21           B. for a member who was not a retired member or a  
22 member on June 30, 2009, the age and service requirements for  
23 normal retirement are:

24                   (1) age sixty-seven years or older and five or  
25 more years of service credit;

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1                   (2) age sixty-six years and seven or more  
2 years of service credit;

3                   (3) age sixty-five years and eight or more  
4 years of service credit;

5                   (4) age sixty-four years and ten or more years  
6 of service credit;

7                   (5) age sixty-three years and thirteen or more  
8 years of service credit;

9                   (6) age sixty-two years and sixteen or more  
10 years of service credit;

11                   (7) age sixty-one years and nineteen or more  
12 years of service credit;

13                   (8) age sixty years and twenty or more years  
14 of service credit; or

15                   (9) any age and thirty or more years of  
16 service credit."

17           Section 13. Section 10-11-69 NMSA 1978 (being Laws 1987,  
18 Chapter 253, Section 69) is amended to read:

19           "10-11-69. MUNICIPAL POLICE MEMBER COVERAGE PLAN 3--AGE  
20 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under  
21 municipal police member coverage plan 3, the age and service  
22 requirements for normal retirement are:

23                   A. age sixty-five years or older and five or more  
24 years of [~~eredit~~] service credit;

25                   B. age sixty-four years and eight or more years of

underscored material = new  
[bracketed material] = delete

1     ~~credited~~ service credit;

2             C. age sixty-three years and eleven or more years  
3 of ~~credited~~ service credit;

4             D. age sixty-two years and fourteen or more years  
5 of ~~credited~~ service credit;

6             E. age sixty-one years and seventeen or more years  
7 of ~~credited~~ service credit; ~~or~~

8             F. any age and twenty or more years of ~~credited~~  
9 service credit for an individual who was a retired member or a  
10 member on June 30, 2009; or

11            G. any age and twenty-five or more years of service  
12 credit for an individual who was not a retired member or a  
13 member on June 30, 2009."

14            Section 14. Section 10-11-75 NMSA 1978 (being Laws 1987,  
15 Chapter 253, Section 75) is amended to read:

16            "10-11-75. MUNICIPAL POLICE MEMBER COVERAGE PLAN 4--AGE  
17 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under  
18 municipal police member coverage plan 4, the age and service  
19 requirements for normal retirement are:

20            A. age sixty-five years or older and five or more  
21 years of ~~credited~~ service credit;

22            B. age sixty-four years and eight or more years of  
23 ~~credited~~ service credit;

24            C. age sixty-three years and eleven or more years  
25 of ~~credited~~ service credit;

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1           D. age sixty-two years and fourteen or more years  
2 of [~~credited~~] service credit;

3           E. age sixty-one years and seventeen or more years  
4 of [~~credited~~] service credit; [~~or~~]

5           F. any age and twenty or more years of [~~credited~~]  
6 service credit for an individual who was a retired member or a  
7 member on June 30, 2009; or

8           G. any age and twenty-five or more years of service  
9 credit for an individual who was not a retired member or a  
10 member on June 30, 2009."

11           Section 15. Section 10-11-81 NMSA 1978 (being Laws 1987,  
12 Chapter 253, Section 81) is amended to read:

13           "10-11-81. MUNICIPAL POLICE MEMBER COVERAGE PLAN 5--AGE  
14 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under  
15 municipal police member coverage plan 5, the age and service  
16 requirements for normal retirement are:

17           A. age sixty-five years or older and five or more  
18 years of [~~credited~~] service credit;

19           B. age sixty-four years and eight or more years of  
20 [~~credited~~] service credit;

21           C. age sixty-three years and eleven or more years  
22 of [~~credited~~] service credit;

23           D. age sixty-two years and fourteen or more years  
24 of [~~credited~~] service credit;

25           E. age sixty-one years and seventeen or more years

1 of [~~credited~~] service credit; [~~or~~]

2 F. any age and twenty or more years of [~~credited~~]  
3 service credit for an individual who was a retired member or a  
4 member on June 30, 2009; or

5 G. any age and twenty-five or more years of service  
6 credit for an individual who was not a retired member or a  
7 member on June 30, 2009."

8 Section 16. Section 10-11-99 NMSA 1978 (being Laws 1987,  
9 Chapter 253, Section 99) is amended to read:

10 "10-11-99. MUNICIPAL FIRE MEMBER COVERAGE PLAN 3--AGE AND  
11 SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal  
12 fire member coverage plan 3, the age and service requirements  
13 for normal retirement are:

14 A. age sixty-five years or older and five or more  
15 years of [~~credited~~] service credit;

16 B. age sixty-four years and eight or more years of  
17 [~~credited~~] service credit;

18 C. age sixty-three years and eleven or more years  
19 of [~~credited~~] service credit;

20 D. age sixty-two years and fourteen or more years  
21 of [~~credited~~] service credit;

22 E. age sixty-one years and seventeen or more years  
23 of [~~credited~~] service credit; [~~or~~]

24 F. any age and twenty or more years of [~~credited~~]  
25 service credit for an individual who was a retired member or

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1 a member on June 30, 2009; or

2 G. any age and twenty-five or more years of  
3 service credit for an individual who was not a retired member  
4 or a member on June 30, 2009."

5 Section 17. Section 10-11-105 NMSA 1978 (being Laws  
6 1987, Chapter 253, Section 105) is amended to read:

7 "10-11-105. MUNICIPAL FIRE MEMBER COVERAGE PLAN 4--AGE  
8 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under  
9 municipal fire member coverage plan 4, the age and service  
10 requirements for normal retirement are:

11 A. age sixty-five years or older and five or more  
12 years of [~~eredit~~] service credit;

13 B. age sixty-four years and eight or more years  
14 of [~~eredit~~] service credit;

15 C. age sixty-three years and eleven or more years  
16 of [~~eredit~~] service credit;

17 D. age sixty-two years and fourteen or more years  
18 of [~~eredit~~] service credit;

19 E. age sixty-one years and seventeen or more  
20 years of [~~eredit~~] service credit; [~~or~~]

21 F. any age and twenty or more years of [~~eredit~~]  
22 service credit for an individual who was a retired member or  
23 a member on June 30, 2009; or

24 G. any age and twenty-five or more years of  
25 service credit for an individual who was not a retired member

1 or a member on June 30, 2009."

2 Section 18. Section 10-11-111 NMSA 1978 (being Laws  
3 1987, Chapter 253, Section 111) is amended to read:

4 "10-11-111. MUNICIPAL FIRE MEMBER COVERAGE PLAN 5--AGE  
5 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under  
6 municipal fire member coverage plan 5, the age and service  
7 requirements for normal retirement are:

8 A. age sixty-five years or older and five or more  
9 years of [~~credited~~] service credit;

10 B. age sixty-four years and eight or more years  
11 of [~~credited~~] service credit;

12 C. age sixty-three years and eleven or more years  
13 of [~~credited~~] service credit;

14 D. age sixty-two years and fourteen or more years  
15 of [~~credited~~] service credit;

16 E. age sixty-one years and seventeen or more  
17 years of [~~credited~~] service credit; [~~or~~]

18 F. any age and twenty or more years of [~~credited~~]  
19 service credit for an individual who was a retired member or  
20 a member on June 30, 2009; or

21 G. any age and twenty-five or more years of  
22 service credit for an individual who was not a retired member  
23 or a member on June 30, 2009."

24 Section 19. Section 10-11-115.2 NMSA 1978 (being Laws  
25 2003, Chapter 268, Section 3) is amended to read:

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1 "10-11-115.2. MUNICIPAL DETENTION OFFICER MEMBER  
2 COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS FOR NORMAL  
3 RETIREMENT--CALCULATION OF [~~CREDITED~~] SERVICE CREDIT--

4 A. Under municipal detention officer member  
5 coverage plan 1, the age and service requirements for normal  
6 retirement are:

7 (1) age sixty-five years or older and five  
8 or more years of [~~credited~~] service credit;

9 (2) age sixty-four years and eight or more  
10 years of [~~credited~~] service credit;

11 (3) age sixty-three years and eleven or more  
12 years of [~~credited~~] service credit;

13 (4) age sixty-two years and fourteen or more  
14 years of [~~credited~~] service credit;

15 (5) age sixty-one years and seventeen or  
16 more years of [~~credited~~] service credit;

17 (6) age sixty years and twenty or more years  
18 of [~~credited~~] service credit; or

19 (7) any age and twenty-five or more years of  
20 [~~credited~~] service credit.

21 B. In calculating [~~credited~~] service credit for  
22 the purposes of determining retirement eligibility and amount  
23 of pension, the [~~credited~~] service credit of a municipal  
24 detention officer member who was a retired member or a member  
25 on June 30, 2009 shall have actual [~~credited~~] service credit

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1 increased by twenty percent for the purposes of municipal  
2 detention officer member coverage plan 1."

3 Section 20. Section 10-11-133 NMSA 1978 (being Laws  
4 1987, Chapter 253, Section 133, as amended) is amended to  
5 read:

6 "10-11-133. INVESTMENT OF FUNDS--PRUDENT INVESTOR  
7 STANDARD--CONDITIONS.--

8 A. Commissions paid for the purchase and sale of  
9 any security shall not exceed brokerage rates prescribed and  
10 approved by stock exchanges that have been approved by or are  
11 under the control of the United States securities and  
12 exchange commission or by industry practice.

13 B. The retirement board shall invest and manage  
14 the funds administered by the retirement board in accordance  
15 with the Uniform Prudent Investor Act.

16 C. The retirement board shall provide quarterly  
17 performance reports to the legislative finance committee and  
18 the department of finance and administration. Annually, the  
19 retirement board shall ratify and provide its written  
20 investment policy, including any amendments, to the  
21 legislative finance committee and the department of finance  
22 and administration.

23 D. Securities purchased with money from or held  
24 for any fund administered by the retirement board and for  
25 which the retirement board is trustee shall be in the custody

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1 of the state treasurer who shall, at the direction of the  
2 retirement board, deposit with a bank or trust company the  
3 securities for safekeeping or servicing.

4 E. The retirement board may consult with the  
5 state investment council or state investment officer and  
6 request information or advice with respect to the retirement  
7 board's overall investment plan, may utilize the services of  
8 the state investment council and state investment officer and  
9 may act on their advice concerning the plan. The state  
10 investment council and state investment officer shall render  
11 investment services to the retirement board without expense  
12 to the retirement board. The retirement board may also  
13 employ the investment management services and related  
14 management services of a trust company or national bank  
15 exercising trust powers or of an investment counseling firm  
16 or brokers for the purchase and sale of securities,  
17 commission recapture and transitioning services and may pay  
18 reasonable compensation for such services from funds  
19 administered by the retirement board. The terms of any such  
20 investment management services contract shall incorporate the  
21 statutory requirements for investment of funds under the  
22 retirement board's jurisdiction.

23 F. The retirement board shall annually provide  
24 for its members no less than eight hours of training in  
25 pension fund investing, fiduciary obligations or ethics. A

1 member elected to the retirement board who fails to attend  
 2 the training for two consecutive years shall be deemed to  
 3 have resigned from the retirement board.

4           [F-] G. Except as provided in the Public  
 5 Employees Retirement Act, a member of the retirement board,  
 6 employee of the retirement board or any person connected with  
 7 the retirement board in any manner shall not:

8                   (1) have any direct or indirect interest in  
 9 the gains or profits of any investment made by the retirement  
 10 board;

11                   (2) receive any direct or indirect pay or  
 12 emolument for services provided to the retirement board or  
 13 the association;

14                   (3) directly or indirectly, for the member,  
 15 employee or person, for themselves or as agent or partner of  
 16 others, borrow any of the funds or deposits of the  
 17 association or in any manner use them except to make current  
 18 and necessary payments authorized by the retirement board; or

19                   (4) become an endorser or surety or become  
 20 in any manner an obligor for money of the retirement board  
 21 loaned or borrowed."

22           Section 21. A new section of the Public Employees  
 23 Retirement Act is enacted to read:

24           "[NEW MATERIAL] CALCULATION OF FINAL AVERAGE SALARY.--  
 25 Under each coverage plan of the Public Employees Retirement

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1 Act, the final average salary is one thirty-sixth of the  
2 greatest aggregate amount of salary paid a member for thirty-  
3 six consecutive but not necessarily continuous months of  
4 service credit; provided, however, if the salary paid in any  
5 year beginning on or after July 1, 2009 exceeds that of the  
6 previous year by more than thirty-five percent:

7 A. the amount in excess of thirty-five percent  
8 shall be excluded in the computation of final average salary;  
9 and

10 B. the salary, as adjusted to exclude any  
11 increase over the thirty-five percent limitation, shall be  
12 used to determine if the salary paid in the subsequent year  
13 exceeds the thirty-five percent limitation."

14 Section 22. Section 22-11-13 NMSA 1978 (being Laws  
15 1967, Chapter 16, Section 137, as amended) is amended to  
16 read:

17 "22-11-13. BOARD AUTHORITY TO INVEST THE FUND--PRUDENT  
18 INVESTOR STANDARD--INDEMNIFICATION OF BOARD.--

19 A. The board is authorized to invest or reinvest  
20 the fund in accordance with the Uniform Prudent Investor Act.

21 B. The board shall provide quarterly performance  
22 reports to the legislative finance committee and the  
23 department of finance and administration. Annually, the  
24 board shall ratify and provide its written investment policy,  
25 including any amendments, to the legislative finance

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1 committee and the department of finance and administration.

2 C. The board or its designated agent may enter  
3 into contracts for the temporary exchange of securities for  
4 the use by broker-dealers, banks or other recognized  
5 institutional investors, for periods not to exceed one year,  
6 for a specified fee or consideration. Such a contract shall  
7 not be entered into unless the contract is fully secured by a  
8 collateralized, irrevocable letter of credit running to the  
9 board, cash or equivalent collateral of at least one hundred  
10 two percent of the market value of the securities plus  
11 accrued interest temporarily exchanged. This collateral  
12 shall be delivered to the state fiscal agent or its designee  
13 contemporaneously with the transfer of funds or delivery of  
14 the securities. Such contract may authorize the board to  
15 invest cash collateral in instruments or securities that are  
16 authorized fund investments and may authorize payment of a  
17 fee from the fund or from income generated by the investment  
18 of cash collateral to the borrower of securities providing  
19 cash as collateral. The board may apportion income derived  
20 from the investment of cash collateral to pay its agent in  
21 securities lending transactions.

22 D. Commissions paid for the purchase or sale of  
23 any securities pursuant to the provisions of the Educational  
24 Retirement Act shall not exceed brokerage rates prescribed  
25 and approved by national stock exchanges or by industry

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1 practice.

2 E. Securities purchased for the fund shall be  
3 held in the custody of the state treasurer. At the direction  
4 of the board, the state treasurer shall deposit with a bank  
5 or trust company the securities for safekeeping or servicing.

6 F. The board may consult with the state  
7 investment council or the state investment officer; may  
8 request from the state investment council or the state  
9 investment officer any information, advice or recommendations  
10 with respect to investment of the fund; may utilize the  
11 services of the state investment council or the state  
12 investment officer; and may act upon any advice or  
13 recommendations of the state investment council or the state  
14 investment officer. The state investment council or the  
15 state investment officer shall render investment advisory  
16 services to the board upon request and without expense to the  
17 board. The board may also employ the investment management  
18 services and related management services of a trust company  
19 or national bank exercising trust powers or of an investment  
20 counseling firm or brokers for the purchase and sale of  
21 securities, commission recapture and transitioning services  
22 and may pay reasonable compensation for those services from  
23 funds administered by the board.

24 G. The board shall annually provide for its  
25 members no less than eight hours of training in pension fund

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1 investing, fiduciary obligations or ethics. A member elected  
 2 or appointed to the board who fails to attend the training  
 3 for two consecutive years shall be deemed to have resigned  
 4 from the board.

5           [~~G.~~] H. Members of the board, jointly and  
 6 individually, shall be indemnified from the fund by the state  
 7 from all claims, demands, suits, actions, damages, judgments,  
 8 costs, charges and expenses, including court costs and  
 9 attorney fees, and against all liability, losses and damages  
 10 of any nature whatsoever that members shall or may at any  
 11 time sustain by reason of any decision made in the  
 12 performance of their duties pursuant to this section."

13           Section 23. Section 22-11-23 NMSA 1978 (being Laws  
 14 1981, Chapter 293, Section 2, as amended) is amended to read:

15           "22-11-23. RETIREMENT ELIGIBILITY--INITIAL MEMBERSHIP  
 16 PRIOR TO JULY 1, 2009.--

17           A. [~~On and after July 1, 1984~~] The retirement  
 18 eligibility for a member who either was a member on June 30,  
 19 2009, or was a member at any time prior to that date and had  
 20 not, on that date, been refunded all member contributions  
 21 pursuant to Subsection A of Section 22-11-15 NMSA 1978, is as  
 22 follows:

23                       (1) a member shall be eligible for  
 24 retirement benefits pursuant to the Educational Retirement  
 25 Act when either of the following conditions occurs:

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1 (a) the sum of the member's age and  
2 years of earned service-credit equals seventy-five; or

3 (b) upon completion of five years of  
4 earned service-credit and upon becoming sixty-five years of  
5 age;

6 (2) a member under sixty years of age  
7 eligible to retire under Paragraph (1) of this subsection may  
8 retire and receive retirement benefits pursuant to the  
9 Educational Retirement Act that [~~he~~] the member would be  
10 eligible to receive if [~~he~~] the member were to retire at the  
11 age of sixty years reduced by six-tenths of one percent for  
12 each one-fourth, or portion thereof, year that retirement  
13 occurs prior to the member's sixtieth [~~birthdate~~] birthday  
14 but after the fifty-fifth [~~birthdate~~] birthday, and one and  
15 eight-tenths percent for each one-fourth, or portion thereof,  
16 year that retirement occurs prior to age fifty-five; or

17 (3) a member under sixty years of age  
18 acquiring twenty-five or more years of earned and allowed  
19 service credit may retire and receive retirement benefits  
20 pursuant to the Educational Retirement Act computed on the  
21 same basis as if the member were sixty years of age.

22 B. A member shall be subject to the provisions of  
23 Paragraphs (2) and (3) of Subsection A of this section as  
24 they existed at the beginning of [~~his~~] the member's last  
25 cumulated four quarters of earned service-credit, regardless

1 of later amendment."

2 Section 24. A new section of the Educational  
3 Retirement Act, Section 22-11-23.1 NMSA 1978, is enacted to  
4 read:

5 "22-11-23.1. [NEW MATERIAL] RETIREMENT ELIGIBILITY--  
6 INITIAL MEMBERSHIP ON OR AFTER JULY 1, 2009.--A member who  
7 initially became a member on or after July 1, 2009 or a  
8 member who was a member at any time prior to that date and  
9 had, before that date, been refunded all member contributions  
10 pursuant to Subsection A of Section 22-11-15 NMSA 1978, shall  
11 be eligible for retirement benefits pursuant to the  
12 Educational Retirement Act when one of the following  
13 conditions occurs:

14 A. the member is any age and has thirty or more  
15 years of earned service credit;

16 B. the member is at least sixty-seven years of  
17 age and has five or more years of earned service credit; or

18 C. the sum of the member's age and years of  
19 earned service credit equals at least eighty; provided that a  
20 member who retires pursuant to this paragraph shall be  
21 subject to the benefit reductions provided in Paragraphs (1)  
22 and (2) of Subsection H of Section 22-11-30 NMSA 1978."

23 Section 25. Section 22-11-25.1 NMSA 1978 (being Laws  
24 2001, Chapter 283, Section 2, as amended by Laws 2003,  
25 Chapter 80, Section 1 and by Laws 2003, Chapter 145, Section

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1) is amended to read:

"22-11-25.1. RETURN TO EMPLOYMENT--BENEFITS  
CONTINUED--ADMINISTRATIVE UNIT CONTRIBUTIONS.--

A. Except as provided in Subsections B and ~~[E]~~ F of this section, beginning January 1, 2002 and continuing until January 1, ~~[2012]~~ 2022, a retired member may begin employment at a local administrative unit and shall not be required to suspend retirement benefits if the member has not ~~[been employed as an employee or independent contractor by]~~ rendered service to a local administrative unit for at least twelve consecutive months ~~[from]~~ after the date of retirement ~~[to the commencement of employment or reemployment with a local administrative unit]~~. If the retired member returns to employment without first completing twelve consecutive months of retirement, the retired member shall remove himself or herself from retirement.

B. A retired member who was retired on or before January 1, 2001 and has not since suspended or been required to suspend retirement benefits pursuant to the Educational Retirement Act ~~[and is reemployed by a local administrative unit may continue employment at the]~~ may, at any time prior to January 1, 2022, return to employment for a local administrative unit and shall not be required to suspend retirement benefits.

C. A retired member who returns to employment

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[bracketed material] = delete

1 during retirement pursuant to Subsection A, ~~[or]~~ B or F of  
 2 this section is entitled to continue to receive retirement  
 3 benefits but is not entitled to acquire service credit or to  
 4 acquire or purchase service credit in the future for the  
 5 period of the retired member's reemployment with a local  
 6 administrative unit.

7 D. A retired member shall not be eligible to  
 8 return to employment pursuant to Subsection A, B or F of this  
 9 section unless an application to return to work, on a form  
 10 prescribed by the board, has been submitted to, and approved  
 11 by, the board and the applicant has complied with such other  
 12 rules as promulgated by the board.

13 ~~[D.]~~ E. A retired member who returns to  
 14 employment pursuant to ~~[Subsections]~~ Subsection A, ~~[or]~~ B or  
 15 F of this section shall not make contributions to the fund as  
 16 specified in the Educational Retirement Act; however, the  
 17 local administrative ~~[unit's contributions as specified in~~  
 18 ~~that act shall be paid to the fund as]~~ unit employing the  
 19 retired member shall pay to the fund an amount equal to the  
 20 total of the member contributions and the local  
 21 administrative unit contributions that would be required  
 22 pursuant to Section 22-11-21 NMSA 1978 if the retired member  
 23 was a non-retired employee.

24 ~~[E.]~~ F. Beginning July 1, 2003 and continuing  
 25 until January 1, ~~[2012]~~ 2022, a retired member who retired on

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1 or before January 1, 2001, [~~and who has not been employed as~~  
2 ~~an employee or independent contractor by~~] who subsequently  
3 voluntarily suspended or was required to suspend retirement  
4 benefits and who has not rendered service to a local  
5 administrative unit for at least ninety days may begin  
6 employment at a local administrative unit without suspending  
7 retirement benefits if the retired member was not employed by  
8 a local administrative unit for an additional twelve or more  
9 consecutive months after the initial date of the retirement;  
10 provided that the ninety-day period shall not include any  
11 part of a summer or other scheduled break or vacation period.

12 G. Both the retired member who returns to  
13 employment and the local administrative unit that employs the  
14 retired member shall make contributions to the retiree health  
15 care fund in the amount specified in Subsections A and B of  
16 Section 10-7C-15 NMSA 1978.

17 H. As used in Subsections A and F of this  
18 section:

19 (1) "rendered service to a local  
20 administrative unit" includes employment by a local  
21 administrative unit, whether full or part time; substitute  
22 teaching; voluntarily performing duties for a local  
23 administrative unit that would otherwise be, or in the past  
24 have been, performed by a paid employee or independent  
25 contractor; or performing duties for a local administrative

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1 unit as an independent contractor or an employee of an  
 2 independent contractor; and

3 (2) "local administrative unit" includes any  
 4 entity incorporated, formed or otherwise organized by, or  
 5 subject to the control of a local administrative unit,  
 6 whether or not the entity is created for profit or nonprofit  
 7 purposes."

8 Section 26. Section 22-11-30 NMSA 1978 (being Laws  
 9 1967, Chapter 16, Section 153, as amended) is amended to  
 10 read:

11 "22-11-30. RETIREMENT BENEFITS.--

12 A. Retirement benefits for a member retired  
 13 pursuant to the Educational Retirement Act on or before  
 14 June 30, 1967 shall be paid monthly and shall be one-twelfth  
 15 of a sum equal to one and one-half percent of the first four  
 16 thousand dollars (\$4,000) of the member's average annual  
 17 salary and one percent of the remainder of the member's  
 18 average annual salary multiplied by the number of years of  
 19 the member's total service credit.

20 B. Retirement benefits for a member retired  
 21 pursuant to the Educational Retirement Act on or after  
 22 July 1, 1967 but on or before June 30, 1971 shall be paid  
 23 monthly and shall be one-twelfth of a sum equal to one and  
 24 one-half percent of the first six thousand six hundred  
 25 dollars (\$6,600) of the member's average annual salary and

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1 one percent of the remainder of the member's average annual  
2 salary multiplied by the number of years of the member's  
3 total service credit.

4 C. Retirement benefits for a member retired  
5 pursuant to the Educational Retirement Act on or after  
6 July 1, 1971 but on or before June 30, 1974 shall be paid  
7 monthly and shall be one-twelfth of a sum equal to one and  
8 one-half percent of the member's average annual salary  
9 multiplied by the number of years of the member's total  
10 service credit.

11 D. Retirement benefits for a member retired  
12 pursuant to the Educational Retirement Act on or before  
13 June 30, 1974 but returning to employment on or after July 1,  
14 1974 for a cumulation of one or more years shall be computed  
15 pursuant to Subsection E of this section. Retirement  
16 benefits for a member retired pursuant to the Educational  
17 Retirement Act on or before June 30, 1974 but returning to  
18 employment on or after July 1, 1974 for a cumulation of less  
19 than one year shall be computed pursuant to Subsection A of  
20 this section if [~~his~~] the member's date of last retirement  
21 was on or before June 30, 1967 or pursuant to Subsection B of  
22 this section if [~~his~~] the member's date of last retirement  
23 was on or after July 1, 1967 but not later than June 30, 1971  
24 or pursuant to Subsection C of this section if [~~his~~] the  
25 member's date of last retirement was on or after July 1, 1971

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1 but not later than June 30, 1974.

2 E. Retirement benefits for a member age sixty or  
3 over, retired pursuant to the Educational Retirement Act on  
4 or after July 1, 1974 but not later than June 30, 1987, shall  
5 be paid monthly and shall be one-twelfth of a sum equal to:

6 (1) one and one-half percent of the member's  
7 average annual salary multiplied by the number of years of  
8 service credit for:

9 (a) prior employment; and

10 (b) allowed service credit for service  
11 performed prior to July 1, 1957, except United States  
12 military service credit purchased pursuant to Paragraph (3)  
13 of Subsection A of Section 22-11-34 NMSA 1978; plus

14 (2) two percent of the member's average  
15 annual salary multiplied by the number of years of service  
16 credit for:

17 (a) contributory employment;

18 (b) allowed service credit for service  
19 performed after July 1, 1957; and

20 (c) United States military service  
21 credit for service performed prior to July 1, 1957 and  
22 purchased pursuant to Paragraph (3) of Subsection A of  
23 Section 22-11-34 NMSA 1978.

24 F. Retirement benefits for a member age sixty or  
25 over, retired pursuant to the Educational Retirement Act on

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1 or after July 1, 1987 but not later than June 30, 1991, shall  
2 be paid monthly and shall be one-twelfth of a sum equal to  
3 two and fifteen hundredths percent of the member's average  
4 annual salary multiplied by the number of years of the  
5 member's total service credit; provided that this subsection  
6 shall not apply to any member who was retired in any of the  
7 four quarters ending on June 30, 1987 without having  
8 accumulated not less than 1.0 years earned service credit  
9 after June 30, 1987.

10 G. Retirement benefits for a member age sixty or  
11 over, retired pursuant to ~~[the Educational Retirement Act]~~  
12 Section 22-11-23 NMSA 1978 on or after July 1, 1991, shall be  
13 paid monthly and shall be one-twelfth of a sum equal to two  
14 and thirty-five hundredths percent of the member's average  
15 annual salary multiplied by the number of years of the  
16 member's total service credit; provided that this subsection  
17 shall not apply to any member who was retired in any of the  
18 four consecutive quarters ending on June 30, 1991 without  
19 having accumulated at least one year earned service credit  
20 beginning on or after July 1, 1991.

21 H. Retirement benefits for a member, retired  
22 pursuant to Section 22-11-23.1 NMSA 1978, shall be paid  
23 monthly and shall be one-twelfth of a sum equal to two and  
24 thirty-five hundredths percent of the member's average annual  
25 salary multiplied by the number of years of the member's

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1 total service credit; provided that the benefit for a member  
 2 retiring pursuant to Subsection C of Section 22-11-23.1 NMSA  
 3 1978 shall be reduced by:

4 (1) six-tenths of one percent for each one-  
 5 fourth, or portion thereof, year that retirement occurs prior  
 6 to the member's sixty-fifth birthday but after the sixtieth  
 7 birthday; and

8 (2) one and eight-tenths percent for each  
 9 one-fourth, or portion thereof, year that retirement occurs  
 10 prior to the member's sixtieth birthday.

11 ~~[H.]~~ I. A member's average annual salary,  
 12 pursuant to this section, shall be computed on the basis of  
 13 the last five years for which contribution was made or upon  
 14 the basis of any consecutive five years for which  
 15 contribution was made by the member, whichever is higher;  
 16 provided, however:

17 (1) if the salary paid in any year beginning  
 18 on or after July 1, 2009 exceeds that of the previous year by  
 19 more than thirty-five percent:

20 (a) the amount in excess of thirty-  
 21 five percent shall be excluded in the computation of average  
 22 annual salary; and

23 (b) the salary, as adjusted to exclude  
 24 any increase over the thirty-five percent limitation, shall  
 25 be used to determine if the salary paid in the subsequent

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1 year exceeds the thirty-five percent limitation; and  
2 (2) lump-sum payments made after July 1,  
3 2009 of accrued sick leave or annual leave shall be excluded  
4 from the calculation of salary.

5 J. Unless otherwise required by the provisions of  
6 the Internal Revenue Code of 1986, members shall begin  
7 receiving retirement benefits by age seventy and six months,  
8 or upon termination of employment, whichever occurs later."

9 Section 27. Section 22-11-34 NMSA 1978 (being Laws  
10 1967, Chapter 16, Section 157, as amended) is amended to  
11 read:

12 "22-11-34. ALLOWED SERVICE CREDIT.--

13 A. A member shall be certified to have acquired  
14 allowed service credit pursuant to the Internal Revenue Code  
15 of 1986 for those periods of time when [~~he~~] the member was:

16 (1) employed prior to July 1, 1967 in a  
17 federal educational program within New Mexico, including  
18 United States Indian schools and civilian conservation corps  
19 camps. This service credit shall be allowed without  
20 contribution;

21 (2) engaged in military service that  
22 interrupted [~~his~~] the member's employment in New Mexico if  
23 [~~he~~] the member returned to [~~his~~] employment within eighteen  
24 months following honorable discharge. This service credit  
25 shall be allowed without contribution;

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1 (3) engaged in United States military  
 2 service or the commissioned corps of the public health  
 3 service from which [he] the member was honorably discharged  
 4 [~~if he contributes to the fund a sum equal to ten and one-~~  
 5 ~~half percent of his average annual salary for that period of~~  
 6 ~~time for which he has acquired earned service credit pursuant~~  
 7 ~~to the Educational Retirement Act and subject to the federal~~  
 8 ~~Uniformed Services Employment and Reemployment Rights Act of~~  
 9 ~~1994 for each year of service credit he desires to purchase.~~  
 10 ~~Average annual salary shall be determined in accordance with~~  
 11 ~~rules promulgated by the board but shall always be based on~~  
 12 ~~actual salaries earned by the member where the actual~~  
 13 ~~salaries can be ascertained by the board. The employer's~~  
 14 ~~contributions for service credit shall not be paid by the~~  
 15 ~~employer. The purchase of service credit provided in this~~  
 16 ~~section shall be carried out by the member within three years~~  
 17 ~~after the date of the member's employment following service;~~  
 18 ~~or~~]; provided that:

19 (a) the member shall have five years  
 20 or more of contributory employment to be eligible to purchase  
 21 allowed service credit pursuant to this paragraph;

22 (b) the member shall contribute to the  
 23 fund, for each year of service credit the member elects to  
 24 purchase, a sum equal to the member's average annual actual  
 25 salary for the five years preceding the date of the

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1 contribution multiplied by the sum of the member contribution  
2 rate and the employer contribution rate in effect at the time  
3 of the member's written election to purchase, subject to the  
4 federal Uniformed Services Employment and Reemployment Rights  
5 Act of 1994;

6 (c) full payment shall be made in a  
7 single lump sum within sixty days of the date that the member  
8 is informed of the amount of the payment; and

9 (d) the portion of the purchase cost  
10 derived from the employer's contribution rate shall be  
11 credited to the fund and, in the event that a member requests  
12 a refund of contributions pursuant to Section 22-11-15 NMSA  
13 1978, the member shall not be entitled to a refund of that  
14 portion of the purchase cost derived from the employer  
15 contribution rate; or

16 (4) employed:

17 (a) in a public school or public  
18 institution of higher learning in another state, territory or  
19 possession of the United States;

20 (b) in a United States military  
21 dependents' school operated by a branch of the armed forces  
22 of the United States;

23 (c) as provided in Paragraph (1) of  
24 this subsection after July 1, 1967; or

25 (d) in a private school or institution

1 of higher learning in New Mexico whose education program is  
2 accredited or approved by the [~~state board~~] department at the  
3 time of employment.

4 B. Effective July 1, 2001, the member or employer  
5 under Paragraph (4) of Subsection A of this section shall  
6 contribute to the fund for each year of allowed service  
7 credit desired an amount equal to the actuarial value of the  
8 service purchased as defined by the board. Payment pursuant  
9 to Paragraph (4) of Subsection A of this section may be made  
10 in installments, at the discretion of the board, over a  
11 period not to exceed one year and, if the sum paid does not  
12 equal the amount required for any full year of allowed  
13 service credit, the member shall acquire allowed service  
14 credit for that period of time that is proportionate to the  
15 payment made. Half credit may be allowed without  
16 contribution for not more than ten years of the educational  
17 service described by Subparagraph (a) of Paragraph (4) of  
18 Subsection A of this section if that service was prior to  
19 June 13, 1953 and if the member was employed in New Mexico  
20 prior to June 13, 1953 in a position covered by the  
21 Educational Retirement Act or a law repealed by that act. No  
22 allowed service credit shall be purchased pursuant to  
23 Paragraph (4) of Subsection A of this section unless the  
24 member is currently employed by a local administrative unit.

25 C. No member shall be certified to have acquired

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1 allowed service credit:

2 (1) under any single paragraph or the  
3 combination of only Paragraphs (1) and (4) or only Paragraphs  
4 (2) and (3) of Subsection A of this section in excess of five  
5 years; or

6 (2) in excess of ten years for any other  
7 combination of Paragraphs (1) through (4) of Subsection A of  
8 this section.

9 D. A member receiving service credit under  
10 Paragraph (3) or (4) of Subsection A of this section who  
11 enrolls in the retiree health care authority shall make  
12 contributions pursuant to Subsection C of Section 10-7C-15  
13 NMSA 1978.

14 [~~D.~~] E. The provisions of this section are made  
15 applicable to the services described prior to as well as  
16 after the effective date of the Educational Retirement Act."

17 Section 28. REPEAL.--

18 A. Sections 10-11-26.4, 10-11-30, 10-11-38.4,  
19 10-11-47, 10-11-53, 10-11-55.4, 10-11-55.10, 10-11-59,  
20 10-11-65, 10-11-71, 10-11-77, 10-11-83, 10-11-89, 10-11-95,  
21 10-11-101, 10-11-107, 10-11-113 and 10-11-115.4 NMSA 1978  
22 (being Laws 1994, Chapter 128, Section 5, Laws 1987, Chapter  
23 253, Section 30, Laws 1994, Chapter 128, Section 12, Laws  
24 1987, Chapter 253, Sections 47 and 53, Laws 1993, Chapter 58,  
25 Section 4, Laws 1998, Chapter 106, Section 4, Laws 1987,

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1 Chapter 253, Sections 59, 65, 71, 77, 83, 89, 95, 101, 107  
2 and 113 and Laws 2003, Chapter 268, Section 5, as amended)  
3 are repealed.

4 B. Laws 2004, Chapter 2, Section 1 is repealed.

5 Section 29. EFFECTIVE DATE.--The effective date of the  
6 provisions of this act is July 1, 2009.

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